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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,993	08/29/2003	Denis Drennan	A3-1642	1992
27127 7590 03/13/2008 HARTMAN & HARTMAN, P.C. 552 EAST 700 NORTH VALPARAISO, IN 46383			EXAMINER DONNELLY, JEROME W	
			ART UNIT 3764	PAPER NUMBER
			NOTIFICATION DATE 03/13/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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# Office Action Summary

Application No.

10/604,993

Applicant(s)

DRENNAN, DENIS

Examiner

Jerome W. Donnelly

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) \_\_\_\_ is/are pending in the application. 1-8 and 10-20
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3 is/are allowed.
- 6) ☒ Claim(s) \_\_\_\_ is/are rejected. 1-2 and 4-8, 10 and 11
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to. 12-20
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

Art Unit: 3764

Upon further consideration it has been determined that allowability of the claims as previously presented in the office action of 11/09/07 was improper.

The indicated allowability of claims 3, 9, 10 and 11-20 are is withdrawn in view of the newly discovered reference(s) to Rawlings and Wallner. Rejections based on the newly cited reference(s) follow.

Claim 3 is allowed.

Claims 12-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 6, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Downs in view of Walker and Rawling.

Downs discloses a device comprising a band/belt means defining upper and lower openings for a users waist and hips, thigh cuffs, elastic cables (12) and a channeling means.

Downs however does not show his device wherein his band/belt/girdle and thigh cuffs have a frustro conical shape.

Wallner teaches a device wherein the cuffs of his device have a frustro conical shape and Rawling teaches a device wherein it has a frustro-conical shape (see fig. 2).

Art Unit: 3764

Given the above combined teachings, the examiner notes that it would have been obvious to one of ordinary skill in the art to manufacture the user engagement components to fit the natural muscle-skeletal shape of a user's body, and thereby securing the components of the device to the body.

In regard to a further limitation present in claim 11 which has not been presented in earlier claims. The examiner notes that to manufacture which are comfortable and are required to snugly fit the body during exercise is known. Note multiple layers (1c) (1) and 16 of Rawling. The examiner considers providing multiple fabric layer as part of a securing garment as obvious in view of Rawlings.

In regard to claim 11, the examiner suggest further defining the extensions/soft lining material (as claimed in claim 3) wherein said extension connect said girdle to said cuffs.

Claims 1-2 and 4-8 rejected under 35 U.S.C. 103(a) as being unpatentable over Adele suit Euro Med. In view of Walker and Rawling.

Adeli suit Euro Med. discloses the device of claims 1-2 and 4-8 substantially as claimed absent his band/belt/girdle and thigh cuffs having a frustro conical shape.

Walker teaches a device wherein the cuffs of his device have a frustro conical shape and Rawling teaches a device wherein its shape is frustro conical (see fig. 2).

Given the above teaching the examiner notes that it would have been obvious to one of ordinary skill in the art to manufacture the device of Adeli suit Euro Med wherein his user engagement members of frustro conical, so as to conform to the natural shape of the human body.

Application/Control Number: 10/604,993

Page 4

Art Unit: 3764

Any inquiry concerning this communication should be directed to Jerome Donnelly at telephone number (571)272-4975.

Jerome Donnelly

JEROME DONNELLY  
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read 'Jerome Donnelly', written over a horizontal line.